

M E M O R A N D U M

APRIL 23, 1987

TO: THE BOSTON REDEVELOPMENT AUTHORITY AND
STEPHEN COYLE, DIRECTOR

FROM: SUSAN ALLEN, ASSISTANT DIRECTOR FOR
DEVELOPMENT AND URBAN DESIGN
PAUL MCCANN, EXECUTIVE ASSISTANT TO THE DIRECTOR
LINDA BOURQUE, ASSISTANT DIRECTOR FOR NEIGHBORHOOD
PLANNING AND ZONING

SUBJECT: APPROVAL OF DEVELOPMENT PLANS FOR PLANNED DEVELOPMENT
AREAS NOS. 23 (FAN PIER) AND 24 (PIER 4)

On March 24, 1987, the Boston Redevelopment Authority held a public hearing on the Development Plans for Planned Development Area No. 23 (Fan Pier) and Planned Development Area 24 (Pier 4).

The Development Plan and supporting documentation for Planned Development Area No. 23 was submitted by HBC Associates for a parcel of land known as the Fan Pier consisting of approximately 18.9 acres, including portions of Northern Avenue in South Boston. This Development Plan dated March 16, 1987, consists of ten pages of text plus attachments designated Exhibits I through IV and Substitute Table A dated March 23, 1987. HBC Associates is a joint venture of HT-Boston, Inc., a Delaware Corporation, and Carpenter Fan Piers Limited Partnership.

The Development Plan for Planned Development Area No. 24 was submitted by the Boston Mariner Company, Inc. for a parcel of land comprised of Pier 4 and portions of Pier 3 consisting of approximately 16.4 acres, plus remnant parcels on Northern Avenue in South Boston. This Development Plan, dated March 16, 1987, consists of nine pages of text plus attachments designated Exhibits A through E. The Boston Mariner Company, Inc. is a Massachusetts real estate and development and investment corporation owned by the Athanas family.

Said Development Plans are submitted in accordance with previously approved Master Plans. On February 12, 1986, the Authority approved Master Plans for the development of the Fan Pier and of Pier 4 and a portion of Pier 3 in South Boston pursuant to Section 3-1A(a) of the Boston Zoning Code, and recommended designation of the sites as Planned Development Areas. Acting in response to a petition from the BRA, the Boston Zoning Commission voted on March 21, 1986 to approve map amendments to the Code designating the Fan Pier as Planned Development Area No. 23 and Pier 4 and a portion of Pier 3 as Planned Development Area No. 24. The Zoning Commission's actions were approved by the Mayor on March 27, 1986.

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The Development Plans, which were the subject of the public hearing of March 24, 1987 and for which approval is now sought, set forth certain additional information on the projects required by Section 3-1A(a) of the Code, including the proposed location and appearance of structures, open spaces and landscaping, proposed uses of the project site, densities, proposed traffic circulation, parking and loading facilities, access to public transportation, and proposed dimensions of structures.

In August 1984, the Mayor established the Fan Pier/Pier 4 Citizens Advisory Committee to advise the Authority on the development of these projects. Since that time approximately 70 public meetings have been held involving the Advisory Committee, the Harborpark Advisory Committee, waterfront constituencies, and the South Boston community.

At the same time, a state environmental process as required by the Massachusetts Environmental Protection Act (MEPA), has also taken place. A Draft Environmental Impact Report was filed in November 1985 and found to be in compliance with MEPA on January 30, 1986. In November 1986, the Final EIR was issued. The Secretary of Environmental Affairs certified its compliance with MEPA on February 9, 1987. The Secretary also requested a further mitigation analysis to be submitted. In preparation for that analysis the proponents have prepared and submitted to the BRA five reports entitled "Transportation Impact and Access Plan", "Project Benefits", "Infrastructure", "Inner Harbor Ferry Feasibility Study", and "Urban Design" all dated March 16, 1987 as amended by a document entitled "Supplementary Report Information" dated March 30, 1987.

The Fan Pier/Pier 4 projects combined will result in approximately 4.8 million square feet of mixed use development. Proposed uses include a total of up to approximately 1,425,385 square feet of residential space, 2,126,373 square feet of office space, 937,740 square feet of hotel space, 253,569 square feet of retail space, and 110,000 square feet devoted to public/cultural uses. Buildings nearest to the water's edge are predominantly residential and hotel, with office uses located in buildings along Old Northern Avenue. Retail uses are focused primarily along the Fan Pier canal and the Pier 4 marina. The site for the public/cultural facility is prominently situated on the Fort Point Channel waterfront.

The total development cost of the two projects combined is in excess of \$1.1 billion.

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The design review process has resulted in numerous improvements to both the site plans and buildings for Fan Pier and Pier 4. For example, the island elevation has been lowered, handicapped accessibility has been improved, and the Harborwalk and the east side water's edge walkway on Pier 4 have been widened. The Fan Pier hotel has been moved further back from the waterfront. The floor area ratio, as defined in the respective Development Plans, has been capped at 4.25 for both projects, and the maximum floor area ratio of the office/retail component has been capped at 2.25 for Fan Pier and 2.0 for Pier 4.

The benefits to be generated by the development of the Fan Pier and Pier 4 for both the City of Boston as a whole and South Boston are significant. For example, the city could realize up to approximately \$20 million in real estate taxes annually.

The Fan Pier developer will donate a subleasehold interest and certain infrastructure improvements in Parcel E for a new public/cultural facility. The program for the site will be developed jointly by the city, and the developers in conjunction with the Citizens' Advisory Committee.

Approximately 60 percent of each site will be devoted to publicly accessible areas. The city's Harborwalk will be extended into Fort Point Channel providing pedestrians with a waterfront promenade from which to view and enjoy the activities of the harbor. On the Fan Pier site, adjacent to the Harborwalk, a public waterfront park for sitting or for larger gatherings will be located. The center of the Fan Pier site will contain a large oval space for public use which will then connect to a Harborwalk overlook at the harbor's edge. A dramatic canal will cut through the project site running east and west providing a view corridor to the Customs House Tower. It will also be lined with public promenades on either side and crossed by four bridges -- two of which are pedestrian only while two are designed for both vehicles and pedestrians.

On the Pier 4 site, the Harborwalk continues and runs through a large public waterfront plaza overlooking a marina. A public passageway brings pedestrians through an arcaded galleria from existing Northern Avenue to the plaza. A landscaped linear park runs lengthwise down Pier 4 providing views to the adjacent Pier, while a landscaped entry court is sited at the center of the Pier 4 site. A public breakwater, located at the outer edge of the marina, will allow for fishing or other activities. Both sites will provide a network of publicly accessible streets and sidewalks which will connect the site to the surrounding area providing both physical access to the site and views to the water.

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In the area of employment, the two projects combined will generate approximately 3400 person years of construction work, and 10,000 permanent jobs. Approximately \$3 million in funds for job training will be generated.

The developers have agreed to work with the Mayor's Office of Jobs & Community Services (OJCS) to maximize employment opportunities, particularly for South Boston residents, through participation in the Boston for Boston Agreement, and will submit an Employment Opportunity Plan designed to achieve a goal of 50% of permanent employment opportunities are made available to Boston residents. The developers will also comply with the Boston Residents Jobs Policy and will submit a Boston Residents Construction Employment Plan. The developers will also contribute a total of \$200,000 in addition to linkage for the implementation and oversight of a South Boston Job Stop to ensure that Boston residents are notified of new permanent job openings created by the project. The developers also agree to use good-faith efforts to ensure 10% participation by qualified minority business enterprises at competitive terms in the provision of goods and services related to the operation of the project.

The Fan Pier/Pier 4 projects will greatly assist in the creation of new affordable housing. Combined, the two projects will generate \$15.4 million in housing linkage payments, portions of which may be made available to create up to 150 affordable housing units and 40 units of artists live/work space on nearby or adjoining sites. The Fan Pier developer will also agree to provide real estate development services for the development of the 40 units of artist live/work space referenced above.

In addition, 100 units of affordable housing will be built on the Fan Pier site for residents of the city with primary preference for residents of South Boston. Twenty percent of these units will be rental, while 80% will provide equity ownership opportunities. All units will be guaranteed to be affordable through long-term legal restrictions. In addition, the Pier 4 developer will provide a \$2 million contribution for a South Boston Neighborhood Stabilization Fund to support affordable housing through the conservation of the existing South Boston housing stock.

The developers of Fan Pier/Pier 4 have made substantial commitments to mitigate adverse traffic impacts associated with the projects. A Transportation Access Plan has been submitted which assesses the transportation impacts of the construction and occupancy phases, sets forth a monitoring program, establishes performance goals with regard to vehicle trips and delays, and identifies measures to mitigate adverse transportation impacts.

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On an annual basis, the developers are required to submit for approval a Supplemental Traffic Access Plan (STAP). The STAP will provide a four-year projection of traffic levels, and incorporate changes in development activity, background traffic, and changes in the scheduling of infrastructure improvements. If necessary to meet transportation goals in the area, the developers will agree that the issuance of building permits for the superstructure of certain buildings in the later portions of the development may be deferred as set forth in the First Amendment to the Cooperation Agreement for the respective projects.

In addition, the developers have agreed to help establish the first Transportation Management Association in Boston, which will be made up of the Fan Pier/Pier 4 developers and other property owners in the Northern Avenue area. The developers will participate in the staffing costs associated with the TMA.

Public transit is an important component in the overall transportation program of the project. Therefore, the developers have agreed to provide planning assistance and make on-site improvements for a shuttle bus service, and to operate such a service on an interim basis.

Water transit opportunities are also being developed by the proponents. The Fan Pier developers will construct and manage on-site a water shuttle dock and excursion dock landing, provide landside water transportation facilities including waiting space, ticketing and public rest rooms, and provide the initial operation or comparable funding of a water shuttle. The Pier 4 developer will construct and manage a water taxi dock and coastal cruise ship landing, provide landside facilities, and operate the first on-demand water taxi service in Boston Harbor.

Since the filing of the Final Environmental Impact Report, the Fan Pier/Pier 4 developers have made substantial commitments in the area of infrastructure. As an initial matter, they have agreed to meet the two-for-one infiltration and inflow reduction policy by a combination of on-site and off-site improvements. The developers will construct all water and sewer facilities necessary to tie the projects into the Boston Water and Sewer Commission system including the reconstruction of sanitary sewer facilities in existing Northern Avenue, and will reconstruct a portion of the drainage and sewer facilities in the street grid south of existing Northern Avenue necessary to satisfy the two-for-one goal. They will also fund the replacement of a portion of the North Branch of the South Boston Interceptor at the intersection of A and West First Streets where an existing structural deficiency aggravates combined sewer overflows. The developers will also construct a separated storm drainage system and upgrade water mains in the area.

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Attached are separate resolutions of the Authority, one approving the Development Plan for Planned Development Area No. 23 for the Fan Pier and the other approving the Development Plan for Planned Development Area No. 24 for the Pier 4 development.

Each respective resolution incorporates the extensive public and BRA review process and presents detailed findings which conclude that PDA No. 23 and No. 24 satisfy the PDA Plan criteria as outlined in Section 3-1A of the Boston Zoning Code, as amended. Each resolution also incorporates detailed findings for PDA Nos. 23 and 24 respectively which find that each Development Plan "conforms to the general plan for the city as a whole". Each resolution further finds that for each project the Development Plan is not "injurious to the neighborhood or otherwise detrimental to the public welfare." The resolutions further authorize the Director to petition the Zoning Commission for its approval of the Development Plans for PDA No. 23 and No. 24, and authorizes the Director to enter into a First Amendment to the Cooperation Agreement with the developer of the Fan Pier and the developer of Pier 4 respectively.

Attchd

Recd. Vol ~~II~~

PDA 23

DOCUMENT # 4885

RESOLUTION OF THE BOSTON REDEVELOPMENT AUTHORITY
REGARDING FAN PIER DEVELOPMENT PLAN,
PLANNED DEVELOPMENT AREA NO. 23

1. THE ONGOING BRA APPROVAL PROCESS

WHEREAS, HBC Associates (the "Applicant") is seeking from the Boston Redevelopment Authority (the "BRA") and the Boston Zoning Commission (the "Commission") the approval of a development plan for Planned Development Area No. 23 (the "Development Plan") in connection with a proposed mixed-use development (the "Project"). The Applicant is a joint venture of HT-Boston, Inc., a Delaware corporation, and Carpenter Fan Piers Limited Partnership, a Massachusetts limited partnership (successor to the interest of Carpenter Properties, Inc. in the Applicant). HT-Boston, Inc., an affiliate of Hyatt Corporation, is controlled by the Pritzker family of Chicago. The general partner of Carpenter Fan Piers Limited Partnership is FP, Inc., an affiliate of the Boston-based Carpenter and Company, Inc., which is controlled by Richard L. Friedman.

Section 3-1A of the Boston Zoning Code (the "Code") sets forth procedures for the designation by the BRA of planned development areas. Prior to this Project, the BRA has approved over twenty planned development areas, each involving a site of more than one but less than five acres. Because the site on which the Project is to be located (the "Site") includes more than five acres (in fact, 18.9 acres), a slightly different procedure, permitted by Section 3-1A, has been utilized for the first time.

Under this procedure, on January 16, 1986, the Applicant sought both approval of its master plan (the "Master Plan") which set forth, in accordance with Section 3-1A(a),

a statement of the development concept, including the planning objectives and character of the development, the proposed uses of the area, the range of dimensional requirements contemplated for each of the proposed uses, the proposed phasing of construction of the development and such . . . other items . . . as said [BRA] may require. . . .

and designation of the Site as a planned development area. After a lengthy public hearing on February 12, 1986, the BRA approved the Applicant's Master Plan for the development of the Site and recommended designation of the Site as a planned development area. Again pursuant to Section 3-1A, the BRA then petitioned the Commission, which, after a public hearing, voted on March 21, 1986, to approve the Master Plan and the map amendment to the Code designating the Site as Planned Development Area No. 23. The Commission's action was approved by the Mayor on March 27, 1986.

Approval of the Master Plan constituted approval of the Project's general development concept, permitted uses, and a legally allowed density. Master Plan approval, however, did not constitute approval of a specific development plan. Instead, it led to the current stage of this ongoing public review process at which development plan approval is sought.

A development plan must contain certain elements (the "Plan Criteria"). Under Section 3-1A(a), it must:

set forth the proposed location and appearance of structures, open spaces and landscaping, proposed uses of the area, densities, proposed traffic circulation, parking and loading facilities, access to public transportation, proposed dimensions of structures

A development plan establishes limits of development to be permitted in a project area and insures the provision of certain public amenities.

The Development Plan represents a stage in the planning process for this large-scale development project between the Master Plan and the stage at which the final plans and specifications are submitted to the BRA pursuant to Section 3-1A of the Code for final design review approval and certification as to consistency with the Development Plan.

After public hearing, the BRA may approve a development plan if it determines that it meets the Plan Criteria and that it

conforms to the general plan for the city as a whole and that nothing in such plan will be injurious to the neighborhood or otherwise detrimental to the public welfare.

Even after the Development Plan is approved, the BRA review process will continue. All drawings and specifications will be subject to design review and approval by the BRA. In addition, in order to obtain a building permit, all final plans and specifications must be submitted to the BRA for a determination that they are consistent with the Development Plan. Such a determination may be made if the BRA finds that the final plans and specifications comply with certain essential elements defined

in the Development Plan as "Plan Requirements". If the final plans and specifications do not comply with the Plan Requirements, they cannot be approved unless the Development Plan is amended, after public notice and hearing.

2. THE PRESENT FAN PIER SITE IS A BLIGHTED, DECADENT AND OPEN AREA

WHEREAS, the site is located on the waterfront on Northern Avenue in South Boston, and is bounded by the Fort Point Channel, Boston's Inner Harbor, and a portion of Pier 3. The Site includes approximately 18.9 acres, approximately 16.3 acres of which are presently pier structure and land and 2.6 acres of which are below water. (A more precise description of the Site is contained in the Development Plan.)

At present, the Site is a blighted, decadent and open area and consists of a partially paved and cobblestone parking area (containing 1,500 surface parking spaces), a shed for the collection of parking fees, a one-story warehouse used for storage by Anthony's Pier 4 Restaurant, some old railroad cars, a one-story sandwich shop, and facilities for an excursion boat operation.

Currently, the Site area is an eyesore and grossly underutilized. It is an unattractive parking lot, which returns to the City virtually nothing in terms of tax revenue, employment or other public benefits. Except for commuters who daily use the parking area (and the patrons of the sandwich shop and the

excursion boat operation, which both exist on the periphery of the Site), the general public currently is totally excluded from this valuable waterfront area.

Since 1968, a number of attempts at private development of the Site have been undertaken. None have succeeded.

The BRA finds that, if the Development Plan is not approved, the Fan Pier will continue as a blighted, decadent and open area; that the existing structures and the Site's uses will remain essentially unchanged; and that the potential public benefits from this unique waterfront area will remain untapped.

3. THE APPLICANT'S DEVELOPMENT PLAN

WHEREAS, the Applicant's Development Plan consists of ten pages of text (including a Substitute Table A submitted at the public hearing), plus attachments designated Exhibits I through IV. The Applicant has also submitted to the BRA a Supporting Documentation Section and five reports, entitled "Transportation Impact and Access Plan," "Project Benefits," "Infrastructure," "Inner Harbor Ferry Feasibility Study," and "Urban Design," all dated March 16, 1987, as amended by a document entitled "Supplementary Report Information" dated March 30, 1987. Although these documents are not part of the Development Plan, they set forth additional information relating to the Project. Similarly, the Applicant has also submitted a proposed First Amendment to the Cooperation Agreement (the "First Amendment"). The BRA will not execute the First Amendment until it is satisfied that the First

Amendment will insure compliance with the Development Plan and the provision of the public benefits and mitigation measures referred to herein.

The BRA finds that the Applicant's Development Plan adequately sets forth the required elements or Plan Criteria of Section 3-1A, including the proposed location and appearance of structures, open spaces and landscaping, proposed use of the project Site, densities, proposed traffic circulation, parking and loading facilities, access to public transportation and proposed dimensions of structures.

4. THE PROJECT

WHEREAS, as described in the Development Plan, the Project is a first-class mixed-use development consisting of approximately three million square feet of residential, office, hotel, retail and cultural space to be contained in nine major buildings. The Project will also include more than 11 acres of recreational and other open space, including a marina.

The Project will extend Boston's downtown commercial and residential uses across the Fort Point Channel and thus accommodate the City's immediate need for controlled physical growth. The BRA finds that, without this extension, the City's growth will be severely limited by its relatively small and geographically confined financial district or that, alternatively, such growth may result in overburdening the financial district.

Testimony submitted at the public hearing by the Assistant Director of the BRA for Policy Development and Research further indicates the need to extend the financial district office market in order to accommodate the demand for such space in the future and to increase the provision of office-related employment in the city.

Cesar Pelli & Associates has provided a master design plan for the Project and has been selected to design several of the Project buildings. Mr. Pelli is the former Dean of the Yale University School of Architecture and an internationally recognized architect. In order to provide diversity within the general guidelines of Pelli's master design plan, several other distinguished architects have been selected to design individual buildings in the Project. This arrangement was described at the public hearing by a spokesman for the Boston Society of Architects, Fan Pier Focus Team as a "brilliant stroke."

The BRA finds that, from a design standpoint, the Project will extend the urban character of both South Boston and the downtown and provide distinctive public spaces. The BRA further finds that this is accomplished by taking advantage of the Site's two major attributes: its proximity to the downtown and its proximity to the water; that, in keeping with the traditional building materials employed in Boston, the facades of the Project's buildings will be constructed principally of patterned stone and brick; that a canal will be constructed to the north of

and parallel to the present Northern Avenue; that two vehicular/ pedestrian bridges will cross the canal at Farnsworth and Pittsburgh Streets and two pedestrian bridges will also cross the canal; and that vehicular and pedestrian access to the Project will be by way of the existing Northern Avenue and a combination of proposed new streets.

The BRA finds that massing, setbacks and materials are coordinated to relate to those of the surrounding neighborhood, the downtown and the waterfront; that the Project will optimize its waterfront location through intensive treatment of water edges, the provision of water views, and continuous public access to the waterfront; that the buildings in the Project will have heights and gross floor areas not in excess of those permitted on Substitute Table A of the Development Plan; that, to achieve a reduced scale on the waterfront, the Development Plan restricts the tallest buildings, with the exception of the principal structure on the Hotel Lot, to those portions of the Site located along Northern Avenue and provides for buildings of reduced heights towards the water's edge and that Pelli's unified master design plan will form the basis for a cohesive ensemble of buildings.

Under the Code definitions of "floor area ratio" and "lot area", the construction of the canal, the Harborwalk, the street system and other public areas would result in increases in the floor-area ratio of the Project because such areas would be

excluded from the "lot area" upon which floor-area ratio is calculated.

The BRA finds that, in the calculation of floor-area ratio set forth in the Development Plan ("FAR"), it is appropriate to include these areas in the determination of lot area because the Applicant is setting aside these areas and providing at its own expense these substantial public benefits, including the street system. The calculation of FAR for this Project is set forth at pp. 3-4 of the Development Plan and establishes an overall maximum FAR of 4.25 and a maximum commercial office and retail FAR of 2.25.

5. THE PUBLIC REVIEW PROCESS AND EVOLUTION OF THE PROJECT

WHEREAS, the Fan Pier Plan is undoubtedly the most reviewed, studied and discussed project in the City's history. The public has been included throughout the review process. Moreover, the Project has changed in response to the concerns voiced during the public review process.

In 1981, a single, mixed-use master plan was prepared for the Fan Pier and Pier 4 sites. After extensive consultation with governmental agencies and consideration of public comments, the original master plan was withdrawn by the developers.

Each developer then selected a new architect to respond to the public concerns and the special characteristics of the individual sites. The architects delivered two new master plan

concepts, one for Fan Pier and one for Pier 4. The developers worked with governmental agencies to coordinate a cooperative, interagency review process at the various levels of government. In addition, the proponents sought input from public and private groups representing neighborhood, architectural, historical, Boston Harbor and commercial boating interests.

New master plans were submitted to the BRA and to the Citizens Advisory Committee (CAC), established in August, 1984 by the Mayor as a citizen review group for both projects. There have been more than seventy public meetings involving the CAC, the Harbor Park Advisory Committee, various groups with an interest in the Harbor and the waterfront, and the South Boston community. In addition, there have been more than thirty working sessions between the Applicant's development team and the BRA staff, including a number of senior-level, day-long planning and design sessions.

At the same time, the Secretary of Environmental Affairs has been carrying out a parallel public review process at the state level. As a result of the initial public review, changes were made in the Project and incorporated in the draft Environmental Impact Report ("EIR"), submitted to the Secretary of Environmental Affairs (the "Secretary") in December, 1985. On January 30, 1986, the Secretary issued a Certificate of Finding, concluding that the Draft EIR was in compliance with the Massachusetts Environmental Policy Act and regulations. The Secretary further noted:

The Draft EIR prepared for this project goes well beyond both the breadth of coverage and the depth of detail that is customary in EIRs. By presenting a complete coverage of all planned and potential development in this [area], it provides a truly useful planning document to guide those decisions that must be made by the proponents and public decision makers in the coming months. . . . it evidences the proponents' commitment to a project that both meets their legitimate business aims and respects the public's legitimate rights in the waterfront. . . . it sets the stage for a successful private/public partnership to provide those transportation and infrastructure improvements necessary to support this and other proposed developments in South Boston while limiting the negative effects on the South Boston residential community and the remainder of Boston.

In November of 1986, a four-volume Final EIR was submitted to the Secretary. The Final EIR addressed traffic and parking, wind, shadow, water quality, air quality, noise, visual quality, tidelands, public access, infrastructure and construction impacts. The Secretary's Certificate on the Final EIR was issued on February 9, 1987. The Secretary found that the Final EIR met the statutory standard of adequacy and addressed the environmental impacts of the proposed development. The Secretary also requested additional information in the form of a Mitigation Analysis.

The BRA supported the Secretary's issuance of a Certificate on the Final EIR and the finding of compliance. Indeed, the facts and materials contained in the Draft EIR and in the Final EIR, which have been made part of the record herein, provide support for the BRA's findings herein.

The BRA finds that, as a result of these two-and-one-half years of citizen involvement and public review, numerous changes have been made in the Project. The BRA further finds that, out of this public review, through the diligent and good faith cooperation of the Applicant, a better Project has evolved.

6. THE "GENERAL PLAN FOR THE CITY AS A WHOLE"

WHEREAS, in approving a development plan, the BRA must find "that such plan conforms to the general plan for the city as a whole. . . ." No specific "general plan" is referred to in Section 3-1A or elsewhere in the Code.

On March 11, 1965, the BRA did adopt as the official master plan of the City for the next decade the "1965/1975 General Plan for the City of Boston and the Regional Core" (the "1965-1975 Plan"). In the intervening twenty-two years, no other formal city-wide plan has been adopted. Neither the 1965-1975 Plan, nor any other single document frozen in time, constitutes "the general plan" for the City. Rather, "the general plan for the City as a whole" is a continually evolving concept.

In determining "the general plan", it is the BRA's administrative practice to look to the 1965-1975 Plan and subsequent studies and actions relating to the particular part of the City under consideration. In this way, the BRA can determine if a particular project is in accordance with long-range planning and furthers the BRA's view as to future development of the City.

With regard to the Fan Pier Site and the Fort Point Channel area, the "general plan for the City as a whole" includes applicable portions of the 1965-1975 Plan and subsequent plans and studies, including a Fort Point Channel study (which examines the general Fort Point Channel area), a South Boston District Profile (which proposes a neighborhood improvement program for South Boston), and recently adopted and proposed Code amendments (which relate to the entire waterfront area).

In February, 1986, when the BRA granted master plan approval for this Project and the Pier 4 project and recommended the related map amendments, it was also expressing the BRA's long range planning goals. Thus, the Master Plan, the Pier 4 master plan and the related map amendments are part of "the general plan" as it relates to the Site.

The 1965-1975 Plan describes the City of Boston as including a Regional Core made up of a series of subcenters located along a linear spine generally running east to west. These subcenters are identified in the 1965-1975 Plan as North Station, the Waterfront, Government Center, Summer-Winter-Washington Streets, Park Square, Copley Square, Prudential Center, Symphony Hall, and Kenmore Square. The Plan envisions communication and connection between the Regional Core's separate subcenters to enable the subcenters to expand and modernize functionally as necessary. Geographically, the 1965-1975 Plan defines the "Regional Core" as that part of the City which includes primarily the Boston

peninsula, plus various fringe areas, such as the Fort Point Channel Area.

Specific development concepts set forth in the 1965-1975 Plan which affect planning for the area in and around the Project include:

- (1) Making fundamental physical improvements within the Regional Core without weakening its historic physical structure. Waterfront renewal is given as an example of the type of development which would accomplish this goal;
- (2) Making improvements along the fringe of the Regional Core, in areas like Fort Point Channel, to improve the depressed land values and economic stagnation which then existed;
- (3) Strengthening diverse residential areas especially near the Waterfront, through development which would be harmonious with its surroundings;
- (4) Improving local circulation of traffic between neighborhoods and subcenters while eliminating unnecessary through-traffic;
- (5) Integrating public open spaces with surrounding neighborhoods in the South Bay/Fort Point Channel Area;
- (6) Developing the area near the intersection of the Harbor and the Fort Point Channel for recreational uses;
- (7) Creating a system of open spaces and pedestrian ways in the Regional Core which links up existing public spaces, such as the Public Garden and the Common, with major bodies of water such as the Charles River and the Harbor; and
- (8) Fulfilling the challenging opportunity presented by the Fort Point Channel Area for "bold new development and grandeur of design."

The BRA finds that, by turning the blighted, decadent and open land of the Site into a first-class mixed-use development, the Project will make improvements along the fringe of the Regional Core, will improve land values and will provide economic stimulus; that by the use of materials and designs which are harmonious with the surroundings and with traditional Boston design concepts, the Project will strengthen the waterfront area; that by its extensive open areas and Harborwalk segments and marina, the Project integrates existing public open spaces with the surrounding neighborhoods and develops recreational uses; and that the Project, designed by a group of locally and internationally prominent architects, clearly provides "bold new development and grandeur of design." The BRA further finds that, in spite of the passage of twenty-two years and Boston's greatly changed condition, the Project, as set forth in the Development Plan, is consistent with the development concepts contained in the 1965-1975 Plan.

Moreover, subsequent plans relating to the Fort Point Channel/Waterfront Area reveal an evolving "general plan" with which the Development Plan also conforms. A study sponsored by the BRA in December, 1977 entitled "The Fort Point Channel Area, A Planning and Development Study" (the "Study") envisions a development project on the Fan Pier which is a clear precursor of the Project proposed by the Development Plan. The Study anticipated that the area might become the site of one of the

largest public and private development programs in Boston's history.

The Study recognizes that the area, with its large vacant tracts in proximity to downtown and the waterfront, represents a valuable resource and stresses the importance of insuring that its development contributes to the City's goals. These goals include the following:

- (1) to maximize the number of jobs suitable for Boston's resident labor force;
- (2) to maximize property tax return for the City;
- (3) to provide sites for uses that are important to the City and which are difficult to locate elsewhere; and
- (4) to minimize requirements for new public facilities or services.

The Development Plan describes a Project which will help the City to meet these goals:

- (1) the Project will create approximately 2,300 person years (or 4.75 million person hours) of construction work and 7,600 permanent jobs;
- (2) the City will collect nearly forty times the existing annual tax revenue from the Fan Pier Site. The annual real estate taxes generated by the Project will increase from the existing \$297,731 to approximately \$12,000,000;
- (3) the Project will provide unique facilities including a marina and canal, which by necessity must be located on the waterfront; and
- (4) the Project will involve an unparalleled addition to the infrastructure of the City which will minimize the need for new public facilities or services.

The BRA finds that, while the Study, which was done a decade ago before the growth and movement of downtown office space towards the waterfront (e.g., Rowes Wharf) and Fort Point Channel (e.g., International Place), does not contemplate major office construction east of Fort Point Channel, the Development Plan otherwise closely conforms to the overall planning objectives set forth in the Study, including providing the necessary measures to mitigate any negative impacts on the South Boston residential community.

Furthermore, the Study discusses and finds appropriate an earlier proposed plan by Anthony Athanas for the Fan Pier-Pier 4 area, which anticipated a mixed-use development comprised of a hotel, residential buildings, office space, shops, restaurants, a marina and parking, and the Study contemplates the use of the planned development area process to resolve zoning problems confronting this type of mixed-use development. The Study also stresses the notion of encouraging public access to the waterfront through a system of open spaces and promenades.

The BRA finds that this Project is utilizing the planned development area process to accomplish the type of mixed-use development envisioned in the Study. Residential, office, hotel, retail, and cultural space will be contained in nine major buildings amidst a system of Harborwalks, parks and promenades which encourages public access to the waterfront.

In 1979, the BRA sponsored a neighborhood improvement program, entitled "South Boston, District Profile and Proposed

1979-1981 Neighborhood Improvement Program" (the "District Profile"), which proposes strategies for revitalizing South Boston. Included in the District Profile proposals are the encouragement of investment in housing, transportation improvements, the reuse of vacant underutilized land and the attraction of new residents and businesses to the neighborhood. The District Profile looks specifically to the development of vacant and underutilized land in the northern section of South Boston, which includes the Fan Pier, to produce large numbers of jobs and broaden the tax base. The District Profile postulates that more jobs and new uses on previously underutilized land can make South Boston an even more attractive place in which to live.

The BRA finds that the Project conforms to the strategies set forth in the District Profile. The BRA further finds that both construction and permanent jobs will be created by the completion of the Project; that tax dollars will be generated, new housing opportunities will be provided, and contemplated office and retail space will bring new business to the area; that various transportation improvements, such as the construction of a new Northern Avenue Bridge and a Seaport Access Road, are currently being pursued by state authorities; and that the Project will revitalize a large tract of vacant and blighted land in the northern section of South Boston and will constitute a major step toward accomplishing the overall goals for South Boston as set forth in the District Profile.

More recently, the BRA, pursuant to its role as the City's planning agency, has rearticulated the City's "general plan" for this area by approving the master plans for Planned Development Areas Nos. 23 and 24 on February 12, 1986. The approved master plans, in accordance with Section 3-1A, set forth planning guidelines for the Fan Pier and Pier 4 including: planning objectives, the character of development to take place, proposed uses, the range of dimensional requirements contemplated for each of the proposed uses, and the proposed construction program.

The approved Master Plan for Planned Development Area No. 23 contemplates that development of the Fan Pier will involve the construction of a mixed-use development consisting of office, residential, hotel and retail space, parking and recreational open space, and marine-related uses. The BRA finds that, in conformance with the articulation in the approved Master Plan, the Development Plan proposes a first-class mixed-use development consisting of residential, office, hotel, retail and cultural space to be contained in nine major buildings; and that at least 60% of the Site will be devoted to recreational and other open space, including a marina.

The most recent statements of the "general plan" for the waterfront are Article 27C of the Code, the Harborpark Interim Planning Overlay District (the "Harborpark IPOD"), and proposed Article 29 of the Code, the Waterfront Public Access Amendment. Although the Harborpark IPOD generally exempts all projects receiving prior planned development area designation and

specifically exempts Planned Development Area No. 23 from its scope, the Project is consistent with the purposes and general land use objectives stated in the Harborpark IPOD.

The general land use objectives stated in the Harborpark IPOD for the South Boston Piers include: utilization of the waterfront as a public resource, thereby extending its use and benefits to the greatest number of people; regulation of building height and massing so as to preserve access to the waterfront, scenic views and ocean breezes; promotion of a mix of uses which are compatible with the adjacent area and which improve the connection between the harbor and the land; preserving adequate areas for water dependent uses; and discouragement of conflicts between industrial and manufacturing uses and existing and anticipated public recreational, commercial, residential and light manufacturing uses in the South Boston Piers planning area.

The BRA finds that the Project will provide for continuous public access along, to, and from the water by extending the Harborwalk, which will include a boardwalk along the marina's edge and a public waterfront park adjacent to the Harborwalk; that the Development Plan is specifically designed to achieve a reduced scale along the waterfront by restricting taller buildings, with the exception of the principal structure on the Hotel Lot, to those portions of the Site located along Northern Avenue and providing for reduced heights towards the water's edge; that the incorporation of a canal on the Site provides waterfront views and waterfront access to the buildings located in the interior of the

Project and creates a major view corridor framing the Custom House Tower; and that, because the surrounding Fort Point Channel area offers predominantly industrial land uses, the Project infuses into the area a mix of commercial, residential, and cultural uses thereby creating an environment of mixed uses which promotes and improves the connection between these uses and the harbor.

The stated purposes of the Waterfront Public Access Amendment, which was proposed as Article 29 of the Code by the BRA, are to protect Boston Harbor; to promote a waterfront that is accessible, safe, comfortable, and inviting to all of Boston's residents and visitors; to encourage waterfront development that is respectful of Boston's heritage and sensitive to the public's need to use the waterfront; to enhance public access to Boston Harbor and its open space, recreational, residential, commercial and water-dependent industrial uses; to regulate new development along Boston's shoreline to assure that it compliments the existing scale and character of the waterfront; and to facilitate the renewed use and vitality of the Boston waterfront to benefit the greatest number of people. Pursuant to the proposed amendments, the standard to be employed by the BRA in determining that a waterfront development project meets a proper public purpose is (a) the extent to which the proposed project enhances the public's overall visual and twenty-four hour physical access to the waterfront; and (b) the extent to which the proposed project's public access is compatible with surrounding land uses.

Planned Development Area No. 23 is not included within the area subject to proposed Article 29. The BRA finds that, nonetheless, the Project fulfills the BRA's stated purposes in this latest articulation of "the general plan" as it relates to the waterfront area. The BRA further finds that the Project's system of Harborwalks, promenades, parks, and open spaces will provide twenty-four hour public access to the waterfront; that the surrounding land uses, which include office, hotel, retail and recreational uses, will encourage public access; that provision for a major public cultural facility on the Site offers an opportunity to attract the public which would permit a greater use of the proposed waterfront open spaces by Boston's residents and visitors and that the materials employed by the Project are intended to relate to the traditional masonry warehouses typical of the nearby Fort Point Channel District and compliment the existing scale and character of the waterfront.

The BRA further finds that the "general plan" is an evolving and changing concept; that it begins with the 1965-1975 Plan, which set forth general principles for the development of the City as a whole; that later studies and plans refine those principles and apply them to the development of the waterfront and Fort Point Channel areas; that the Project incorporates both the general principles and the specific refinements and that the Project "conforms to the general plan for the City as a whole."

7. THE PROJECT IS NOT "INJURIOUS TO THE NEIGHBORHOOD OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE"

WHEREAS, in order to approve the Development Plan, the BRA must find "that nothing in such plan will be injurious to the neighborhood or otherwise detrimental to the public welfare." Opponents of the Project contend that the Development Plan must be rejected if the Project creates a single adverse effect, even if that adverse effect is far outweighed by the Project's many public benefits.

This rigid interpretation would have resulted in the rejection of each of the more than twenty previously approved planned development area projects, since none of those projects is totally free from detriment. Such a result would be contrary to the very purpose of the planned development area process.

The planned development area provisions were intended to inject flexibility into the Code in order to encourage well-planned and thoroughly reviewed large development projects. The BRA cannot and will not destroy this flexibility and the planned development area process by adopting a new interpretation of the Code holding that any adverse effect on the surrounding neighborhood, no matter how slight or insubstantial, requires rejection.

Based on the legislative history of Section 3-1A and upon its consistent administrative practice for nearly two decades, the BRA will continue balancing a project's possible adverse effects and other matters claimed to be detrimental to the public welfare against the benefits to the neighborhood, the City, and the public. It will approve only those which, on balance, are not

"injurious to the neighborhood or otherwise detrimental to the public welfare."

In this instance, the possible detriments of the Fan Pier Project cannot be readily segregated from those of the Pier 4 project. Accordingly, for purposes of this balancing test, we will balance just the Fan Pier's public benefits against the combined detriments resulting from both projects.

The BRA finds that the record reflects numerous general and specific benefits to be provided by the Project. In addition to the general benefits cited earlier herein, including fulfillment of the important planning goals of the City in general and of this area in particular, selected specific benefits are noted below in the areas of jobs and procurement, housing, increased tax revenues, recreational and open space, a new cultural facility, and infrastructure improvements. The First Amendment sets forth the Applicant's commitment to provide many of these benefits, as well as numerous others.

The Project's Benefits
Jobs and Procurement

The Project will generate approximately 2,300 person years (or 4.75 million person hours) of construction work. There was testimony at the public hearing that this will generate approximately \$140 million in wages, \$14 million in health benefits, \$28 million for pension funds, and additional funds for job apprenticeship training (apart from the developer's job

linkage payments). The Project will also generate approximately 7,600 permanent jobs.

The Applicant and the BRA have entered into a Development Impact Project Agreement which requires the Applicant to provide additional linkage of \$1.00 per commercial square foot (or approximately \$2,145,000) earmarked for job training. (This Project and the Pier 4 project are among the first in the City which will provide such additional linkage). It is expected that these jobs linkage payments will, among other things, support a pre-apprenticeship program providing assistance to persons seeking to become union apprentices.

The Applicant has agreed that, prior to issuance of a building permit for the Project's first building, it will submit a Boston Residents Construction Employment Plan, which will set forth its plans for insuring that the contractors for the Project will reserve at least 50% of the total employee worker hours in each trade for Boston residents; at least 25% of the total employee worker hours in each trade for minorities; and at least 10% of the total employee worker hours in each trade for women.

The Applicant also has agreed that, prior to the issuance of a building permit for the Project's first building, it will submit an Employment Opportunity Plan which will provide for the Applicant's good faith efforts to achieve a goal that 50% of the permanent employment opportunities created by the Project will be made available to Boston residents, including residents affected by the Project.

The Applicant will provide \$146,000 in payments to be made to the Mayor's Office of Jobs and Community Services. These payments, which will be made on terms agreed to by the BRA and the Applicant, will be used for the implementation and oversight of a South Boston Job Stop to insure that Boston residents, and South Boston residents in particular, are notified, recruited and prepared for new permanent job openings created by the Project.

The Applicant will establish a Minority Business Enterprise Program promoting participation by minority business enterprises in the construction and operation of the Project and will use good faith efforts to obtain a goal of 10% participation by minority business enterprises in purchasing and contracting for the Project. The Applicant will cooperate with the Mayor's Office of Jobs and Community Services toward a goal of maximizing employment benefits, particularly for South Boston, through participation in a Boston for Boston Agreement applicable to the Project. The Applicant will also implement an outreach program for South Boston and local businesses and stores to give preference to such businesses and stores as tenants in the Project on competitive terms and conditions.

Housing

The BRA is seeking to develop at least 5,000 residential units in Boston by 1990 in order to meet the severe housing shortage which is plaguing the City.

As the Supporting Documentation Section indicates, the housing market in Boston is one of the strongest in the nation, with vacancy rates of 0-2% in some locations. New proposals for housing development in Boston fall short of projected demand.

The Project will help reduce this housing deficit by producing residential units near the downtown area, where the housing shortage is particularly acute. The Project will provide to the City more than 800,000 gross square feet of residential buildings on Fan Pier, including 100 affordable housing units on the Site. Furthermore, portions of the Applicant's linkage housing funds may be made available to assist in the creation of up to 150 additional affordable housing units and 40 units of artists live/work space on adjoining or nearby sites.

It is estimated that more than \$10.7 million, in the form of housing linkage, will be available for creating affordable housing on the Site and throughout the City. (When combined with the approximately \$2.1 million in jobs linkage payments, this brings the Project's total linkage payments to approximately \$12.8 million).

The Applicant will market its housing units in accordance with the City's Fair Housing Plan and submit an Affirmative Fair Housing Marketing Plan acceptable to the Boston Fair Housing Commission and the BRA prior to entering into any sales or rental agreements for such housing units.

No existing households will be displaced by the Project. In view of the minimal use to which the Site is currently put, there

is no need for off-site relocation of the businesses currently operating on the premises.

Increased Tax Revenues

The City will collect nearly forty times the existing annual tax revenue from the Fan Pier when the Project is completed. It is estimated that real estate taxes generated by the Project, once completed, will increase from the existing \$297,731 to approximately \$12,000,000.

In addition, the City and the Commonwealth of Massachusetts can expect a substantial increase in sales taxes, including new retail sales, food and beverage sales and hotel room taxes.

Recreational and Open Space

The Project will include over 11 acres of recreational and other open space, including a marina. At least 60% of the Site will be devoted to publicly accessible areas.

The Project includes five major open spaces: (1) a Harborwalk along the water's edge, (2) a waterfront park adjacent to Harborwalk, (3) an oval near the center of the Project, (4) a Harborwalk overlook adjacent to the central oval and Harborwalk, and (5) a canal with canal promenades lining its edges. (These proposed open spaces are shown on Exhibit IV, attached to the Development Plan.)

The Project will extend the BRA's Harborwalk and will provide a natural environment in which pedestrians can view the activities in the harbor. The Harborwalk will include a boardwalk along the marina's edge and a public waterfront park adjacent to the Harborwalk. An oval located in the center of the Site will open onto a Harborwalk overlook at the water's edge. The canal, running east and west across the Site, will introduce additional water views to the Fan Pier.

New Cultural Facility

Provision will be made for a major public cultural facility located on the Site. The developers will donate a subleasehold interest in a building site expected to be the location of a new facility for The Institute of Contemporary Art.

This museum would be the first new major cultural facility to be built in Boston in more than seventy years.

Infrastructure Improvements

The Project also involves an unparalleled addition to the infrastructure of the City through private funding. In addition to the public spaces to be provided, the Project will include the expansion of the street system and the construction of two pedestrian bridges and two vehicular/pedestrian bridges. A new stormwater drainage system will be constructed by the Applicant on the Site which will mitigate water pollution in the Harbor from stormwater runoff, thereby improving Boston Harbor water quality.

The Applicant and the developer of the Pier 4 project will construct, at their expense, all water and sewer facilities that are directly related to the Project and the Pier 4 project and that are necessary to tie such projects into the Boston Water and Sewer Commission system. As part of this commitment, the Applicant and the developer of the Pier 4 project will reconstruct certain existing sanitary sewer facilities in existing Northern Avenue. The Applicant, together with the developer of the Pier 4 project, will meet the 2:1 infiltration and inflow goal by a combination of on-site and off-site improvements.

Alleged Detriments
And Their Mitigation

Opponents of the Project have alleged that because it will increase the load on the City's overburdened sewer system, the Project will contribute to increased pollution of the Harbor. This allegation is not true. As the Boston Water and Sewer Commission, the agency both directly responsible and most knowledgeable concerning the sewer and drainage problems in the area, has noted in its February 2, 1987 comment letter to Secretary Hoyte on the Final EIR:

The proposed sewer, water and drain system improvements to be undertaken by the Fan Pier/Pier 4 proponents will contribute to the betterment of BWSC areawide services and will help contribute to the improvement of water quality in Boston Harbor. (Emphasis added.)

As the Applicant's report entitled "Infrastructure"

demonstrates, the Project will reduce "combined sewer overflows" by reconstructing a portion of the North Branch of the South Boston Interceptor at A Street and by other measures, including the attainment of the 2:1 infiltration and inflow goal. The Applicant will also improve water quality by building, at its expense, a storm drainage system that will treat surface drainage to minimize the discharge of pollutants into the Harbor. (The Site currently lacks any storm drainage system with the result that discharge of gas and oil from the 1,500 automobiles currently parked on the Site is carried by runoff directly into the Harbor).

Critical regional problems, such as the cleanup of the Harbor, will not be solved by a single project, even with massive infrastructure improvements of the type committed to by this Applicant. Nonetheless, while the relevant governmental agencies work with the community to solve these regional problems over time, reasonable development must continue, so long as it is undertaken with extensive mitigation procedures of the sort planned for this Project.

The Project will improve, not worsen, water quality. For this reason, the Project should not be delayed pending various off-site, governmentally funded measures to improve the region's sewer system and water quality in the Harbor.

Transportation

Various concerns have been expressed regarding the traffic

problems associated with the Project. The Applicant and the BRA have addressed those concerns.

The developer prepared a Transportation Access Plan ("TAP"), coupled with an acceptable monitoring and mitigation plan. This was submitted to the BRA on March 16, 1987. The TAP describes the use of the existing roadway, parking and transit facilities serving the South Boston area, characterizes existing state and city plans for upgrading these systems and facilities, assesses the effects of the Fan Pier and Pier 4 developments on existing and future transportation systems in 1995 (the proposed completion date for the developments) and examines measures to mitigate adverse impacts.

The TAP sets forth a monitoring program for the Fan Pier and Pier 4 projects and establishes goals with regard to PM-peak hour outbound vehicle trips from the Project and delays encountered at six locations in the vicinity of the Project.

The TAP identifies measures which may be necessary to mitigate adverse transportation impacts. Some systems in the area will be able to absorb the cumulative growth from all developments and still maintain acceptable service. Others will be handling volumes at or in excess of their capacity during the peak hours unless mitigation measures are implemented.

The BRA has worked closely with the Applicant in arriving at possible mitigation measures. While many of the specific suggestions to relieve transportation impacts are dependent upon actions by governmental agencies, the developers have evidenced a

clear commitment to work with the City and Commonwealth to insure that a meaningful program of mitigation actions is identified and implemented. In addition, many of the specific mitigation measures are set forth in the First Amendment. For example, if necessary to meet transportation goals in the area, the issuance of building permits for the superstructure of certain buildings in the later portions of the project may be deferred in accordance with the First Amendment to the Cooperation Agreement. In addition, under certain traffic conditions, specified payments are required to be made to the Authority for use by the Boston Transportation Department in implementing traffic mitigation measures.

The TAP also considered the impact of construction activities. Construction will not significantly change current traffic conditions. Nonetheless, the Applicant will undertake certain mitigation measures to insure that any change will be beneficial. These measures will insure, among other things, that the South Boston community is protected from the dangers of excessive construction truck traffic.

A monitoring and mitigation program will be necessary to measure future site-generated traffic and future roadway volumes. In this way, the TAP can be updated so that it may reflect and respond to conditions as they change over time. Because it cannot now be predicted with certainty which mitigation approaches will be most successful, the ongoing monitoring and mitigation program

is the best means of assuring that the developers and City and state agencies can respond creatively to traffic problems.

The TAP also requires the formation of a Transportation Management Association which will be responsible for monitoring site generated traffic and area roadway volumes and for reporting the results to the City. This Transportation Management Association will be the first of its kind in Boston and will greatly facilitate the mitigation of traffic impacts.

In order to promote and support the creation of an Inner Harbor water transportation system, the Applicant will agree to take the following steps: (i) provision of planning and feasibility studies for water transportation systems in Boston Inner Harbor and (ii) cooperation with private and public entities in the provision of water transportation service for commuters, airport users and tourists in Boston Inner Harbor through (a) construction and management on the Site of a water shuttle dock and excursion boat landing, (b) landside water transportation facilities, including waiting space, ticketing and public restrooms, and (c) initial operation of, or a comparable funding commitment for, a water shuttle between the Project and Logan Airport.

Continuing Mitigation Measures

The issues relating to potential traffic and infrastructure impact of the Project are complex and not subject to easy solutions. The Applicant has diligently and commendably addressed

these issues and has been a full participant (and often a catalyst) in a joint effort now underway with the City, state and federal governments to plan for this new era in Boston's development. As noted above, the Cooperation Agreement and the First Amendment to the Cooperation Agreement, when executed, will insure that these mitigation efforts continue.

The Balancing of Public Benefits and Alleged Detriments

The BRA has sought the advice of the CAC as an aid in balancing the Project's possible adverse effects and other matters claimed to be detrimental to the public welfare against the Project's benefits to the neighborhood, the City, and the public. The CAC, whose membership represents a broad array of constituencies throughout the City and includes many individuals who live and work in South Boston, is uniquely qualified to balance the claimed detriments of the Project against its benefits. The members of the CAC are intimately familiar with the area surrounding the Project and are thus able to assess the Project's more subtle impacts. Through numerous meetings, the CAC has actively participated in the planning of the Project and in formulating the commitments by the developer to provide various public benefits. After lengthy consideration of the Project at these numerous meetings, the CAC has recommended that the BRA approve the Development Plan.

The Appropriate "Neighborhood"

In carrying out the balancing test of public benefits and detriments required by Section 3-1A, the BRA must consider the appropriate "neighborhood."

Most narrowly, the "neighborhood" in this instance might be defined as the Northern Avenue Corridor. Using that narrow definition, the BRA finds that the Project's benefits clearly outweigh the combined detriments of the Fan Pier and Pier 4 projects. The BRA further finds that replacement of a decadent, blighted open area with a first class, multi-use Project, combined with the significant open space and recreational opportunities and the enhancements of the local infrastructure (the most localized of the Project's benefits), outweigh the increase in local traffic, particularly in view of the required monitoring and mitigation of traffic impacts by the Applicant, and the other alleged localized detriments such as parking, wind, shadow, noise and visual quality.

The BRA further finds that, if the "neighborhood" is defined to include the W-2D zoning district in which the Project is located and the immediately adjoining I-2 and W-2 zoning districts, the balance between the Project benefits and the combined detriments of the Fan Pier and Pier 4 projects is not altered.

Although the Project is more than one-half mile from the nearest residentially zoned neighborhood (the Commercial Wharf

area), and more than three quarters of a mile from the nearest residentially zoned neighborhood in South Boston, perhaps the broadest definition of "neighborhood" might include all of South Boston. Similarly, such an expanded concept of "neighborhood" might also include the financial district and the waterfront. The BRA finds that, if this still broader definition of "neighborhood" is adopted, the benefits to be derived from the Project, in addition to those benefitting the Northern Avenue Corridor and the adjoining zoning districts, increase to include affordable housing, construction jobs, permanent jobs, additional annual real estate taxes, recreational facilities and new public open spaces; that this broader "neighborhood" will suffer no additional detriment beyond those experienced by the Northern Avenue Corridor; and that, with this broader definition of "neighborhood", the balance tips even further in the Project's favor.

Opponents have charged that the Project will add an incremental burden to the sewer facilities serving the entire metropolitan region. The BRA finds that, even if this were so, the Project's public benefits to the neighborhood (regardless of definition) and to the public welfare far outweigh the combined detriments of the Fan Pier and Pier 4 projects, even including this slight alleged incremental detriment.

Enlargement of the "neighborhood" to include even the entire City does not change the outcome of the balancing test.

Accordingly, the BRA finds that the Project is not "otherwise detrimental to the public welfare."

8. CONCLUSION

WHEREAS, the BRA gave due notice of a public hearing to be held in Faneuil Hall on March 24, 1987, to consider the Development Plan and to determine the manner in which Section 3-1A should be applied to the Development Plan. At the public hearing, the BRA heard extensive testimony from approximately fifty witnesses. The BRA considered thirty-two Exhibits submitted by the Applicant at the public hearing. The BRA also considered written comments and rebuttals received during a nine-day period following the public hearing. The BRA also considered written comments from the CAC and the Harborpark Advisory Committee. The BRA closed the public hearing and the public record on this Application on April 2, 1987.

Based on all this evidence, the BRA finds and concludes that the Project is critically important to the revitalization of the Boston Harbor waterfront; that the urban design elements of the Project reflect the urban waterfront context of the Site, while respecting the public goals and guidelines established for waterfront development in Boston; that the Project will form an important link between South Boston neighborhoods and the Inner Harbor; that the Project will also spread eastward across Fort Point Channel the rehabilitation of the waterfront that has already occurred at sites such as Long Wharf and Rows Wharf;

that, in addition, the Project will greatly facilitate the completion of the BRA's Harborpark and Harborwalk proposals; and that the Project will aid the City financially by generating jobs, and by providing Boston with a new source of real estate tax revenues and linkage funds.

Based on all the evidence, the BRA further finds and concludes that the Project's Development Plan satisfies the Plan Criteria and otherwise complies with Section 3-1A.

Based on all the evidence, the BRA further finds and concludes that the Project's Development Plan "conforms to the general plan for the city as a whole."

Based on all the evidence, the BRA weighs this Project's public benefits against the combined detriments of this Project and the Pier 4 project and further finds and concludes that the Project's Development Plan is not "injurious to the neighborhood or otherwise detrimental to the public welfare."

9. RESOLVES

THEREFORE, be it resolved that:

In connection with the Development Plan for Planned Development Area No. 23 presented at a public hearing duly held on March 24, 1987, and after consideration of (a) the evidence presented at, and in connection with, that hearing, including the 32 exhibits that were introduced into the hearing record and the letter dated April __, 1987 from the Chairman of the Fan Pier/Pier 4 Citizens Advisory Committee to the Chairman of the Authority, (b) matters discussed in a memorandum dated April __, 1987 from the Boston Redevelopment Authority (the "Authority") staff to the Authority, and (c) the findings of the

Authority set forth above, which evidence, memorandum and findings are incorporated herein by reference, the Authority finds that said Development Plan (1) conforms to the general plan of the City of Boston as a whole, (2) contains nothing that will be injurious to the neighborhood or otherwise detrimental to the public welfare, and (3) does adequately and sufficiently satisfy all other criteria and specifications for a development plan for a planned development area subdistrict as set forth in the Boston Zoning Code, as amended. Said Development Plan for Planned Development Area No. 23 is embodied in two written documents entitled (1) Development Plan for Planned Development Area No. 23 dated March 16, 1987 consisting of ten pages of text and tables plus attachments designated Exhibits I through IV and included in a document entitled Development Plan and Application with Supporting Documentation for Planned Development Area No. 23 dated March 16, 1987 and (2) Substitute Table A for Development Plan for Planned Development Area No. 23 Contained in Development Plan and Application with Supporting Documentation for Planned Development Area No. 23 dated March 23, 1987; said documents are attached hereto as Exhibits A and B respectively and shall be on file in the office of the Director of Zoning of the Authority.

THEREFORE, be it resolved that:

The form and substance of said Development Plan for Planned Development Area No. 23, and the procedures employed in reviewing and approving said Development Plan, conform with the requirements of the Boston Zoning Code as applied to a development plan affecting all or a portion of a planned development area designated by the Boston Zoning Commission under Section 3-1A of the Boston Zoning Code pursuant to a master plan for such area.

THEREFORE, be it resolved that:

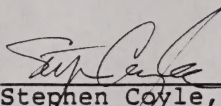
Pursuant to the provisions of Section 3-1A, of the Boston Zoning Code, as amended, the Authority hereby approves said development Plan for Planned Development Area No. 23.

THEREFORE, be it resolved that:

The Authority hereby authorizes the Director of the Authority to petition the Boston Zoning Commission for its approval of said Development Plan for Planned Development Area No. 23 and to execute in the name of and on behalf of the Authority a First Amendment to the Cooperation Agreement for Planned Development Area No. 23 in substantially the form attached hereto as Exhibit C, with such changes as the Director determines to be necessary or desirable, his execution thereof to be conclusive evidence of such determination.

Date: April , 1987

Respectfully submitted,



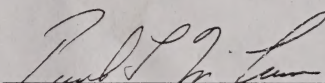
Stephen Coyle, Director

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

April 23 Boston

Then personally appeared before me the above-named Stephen Coyle, Director of the Boston Redevelopment Authority, who executed the foregoing instrument and acknowledged the same to be his free act and deed.



Notary Public

My Commission expires

